MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3724 OF 2007

Namdeo Shankar Mane & ors. Petitioners
versus
Baburao Laxman Mane & others Respondents

Mr.Rahul Kadam for petitioners.

Mr.Vijay Mane for respondents.

CORAM : A.M.KHANWILKAR, J.

DATE : 24th August 2007

PC :

1. Heard counsel for the parties. Rule. Rule made returnable forthwith by consent.

2. This petition takes exception to the judgement and order dated 12th December 2006 passed below Exhibit-49 in Suit No.84 of 2006. By the said application the petitioner had prayed for extension of some time to file written statement for the reasons mentioned in the application. The Court below has merely observed that there is no any extraordinary reason given by the petitioner for showing such indulgence.

3. After going through the pleadings and material on record it does appear that the petitioner was served with the summons on 15th September 2006 which was made returnable on 9th October 2006. On 9th October 2006 the petitioner appeared before the Court and asked for time to file written statement. Thereafter one more extension was sought by the petitioner and eventually the present application Exhibit-49 was filed by the petitioner requesting the Court to grant further time and to take the written statement on record. This application was filed on 12th December 2006 which is obviously within 90 days from the date of service of suit summons. Besides, the petitioner has mentioned reasons in the application Exhibit-49.

4. There is no reason to doubt the explanation offered by the petitioner. The Trial Court has not opined that the reason given in the application by the applicant is false or dishonest. Thus understood, in my opinion, in the interest of justice, the petitioner ought to be shown indulgence. Accordingly, this petition succeeds. The impugned judgement and order dated 12th December 2006 is set aside. Instead, the application Exhibit-49 is made absolute with a

MST

further direction to the petitioner to present his written statement before the Trial Court on or before 3rd September 2007, if already not filed. Petition disposed of on the above terms.

(A.M.KHANWILKAR, J.)